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Supreme Court, U. S.
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In the Supreme Court of the United States

OCTOBER TERM, 1973

JOSEPH P. CANDELLA, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530

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On February 16, 1973, after a jury trial in the United States District Court for the Southern District of New York, petitioners were found guilty on eight counts of a ten-count indictment charging the submission of false bills of lading and affidavits, in violation of 18 U.S.C. 1001 and 2 (aiding and abetting). Petitioners Candella and Gilgan were sentenced to sixty days imprisonment on each of the eight counts, to be served concurrently, and were fined $1,000 on each of the eight counts. The court of appeals affirmed (Pet. App. A).

Petitioners claim (1) that with respect to four counts venue was improperly laid in the Southern District of New York as opposed to the Eastern District of New York, and (2) that the trial court's erroneous characterization of their position as to the bills of lading re-

quires reversal. These assertions are fully answered in the opinion of the court of appeals (Pet. App. 8a-12a), upon which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

FEBRUARY 1974.